

Before the
Federal Communications Commission
Washington, D.C.

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Halfway, Ozark and
Humansville, Missouri)

MM Docket No. 93-186
RM-8258
RM-8333

To: Chief, Allocations Branch
Mass Media Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF MISSOURI RADIO, INC.

Missouri Radio, Inc. ("MRI"), hereby submits its reply comments in the above-captioned proceeding. These reply comments are submitted pursuant to a public notice released September 16, 1993 (RM-8333), accepting the Counterproposal of MRI in MM Docket 93-186.^{1/} By these reply comments, MRI reaffirms and restates its Comment and Counterproposal to the Notice of Proposed Rule Making DA 93-729 (released July 13, 1993) ("NPRM"). As was stated in its Counterproposal, MRI submits that the Commission should allot Channel 256A at Humansville, Missouri as that community's first local service.

1. MRI's proposal would result in a preferential arrangement of FM allotments because, unlike the proposals described in the NPRM, MRI proposes to allocate a first local service to Humansville, Missouri, without denying either Ozark or Halfway, Missouri a local service.

^{1/} The public notice stated that MRI's Petition would be treated as a Counterproposal in MM Docket 93-186 and that Reply Comments to the Counterproposal should be submitted within fifteen days of the public notice.

2. On September 18 and 19, respectively, Ozark Mountain Broadcasting, Inc. ("OMB") and KYOO Broadcasting Company ("KBC"), the original petitioners in this proceeding, filed reply comments which opposed MRI's Counterproposal. In their reply comments OMB and KBC present a "parade of horrors" alleging that MRI's Counterproposal is filed for the sole purpose of blocking the petitioners' proposal, in an abuse of Commission procedures. As "smoking gun" evidence of this fact, KBC and OMB point to the fact that the principal of MRI and John Borders d/b/a Lake Broadcasting, which filed its own Counterproposal in this proceeding (RM-8343), are son and father.^{2/}

3. At no time does either KBC or OMB reply to the very plain and simple fact that, under the Commission's rules and policies, the proposed allocation of a first local service to Humansville is a preferred distribution of spectrum than that proposed by OMB and KBC. This is the central issue, and yet it goes completely ignored in OMB's and KBC's reply comments. OMB and KBC presumably hope that this plain fact will be lost amid pages of discussion about LMA's and public file contents for stations that have nothing to do with this proceeding. Frankly, it is incredible to see the accusations in KBC's and OMB's reply

^{2/} This, as best can be determined, is the crux of OMB's and KBC's objection. It is embellished with page-upon-page and footnote-after-footnote of accusations and personal attacks on John Borders, as well as John Border's company, Sunburst II, Inc. It is difficult to address each and every accusation, as they are largely baseless and irrelevant blasts, with no particular objective other than to cloud the fact that OMB and KBC have no satisfactory rebuttal to MRI's preferential proposal.

comments; anti-competitive activities, rule violations, extortion, to name a few.^{3/}

4. Although the absolutely ludicrous nature of the OMB and KBC reply comments do not deserve a reply,^{4/} the fact is that an accusation of deliberate abuse of Commission processes is a very serious matter which needs to be addressed. In a nutshell, both OMB and KBC state that MRI's Counterproposal is an abuse of Commission processes because MRI has no intention of building the proposed station in Humansville, and, as such, the Counterproposal was submitted for the sole purpose of blocking OMB's and KBC's proposal as stated in the NPRM. As support for this accusation, OMB and KBC state that the MRI Counterproposal was filed in concert with the Lake Broadcasting ("LB") Counterproposal. KBC and OMB, in their essentially identical reply comments, point to the fact that the principal of MRI, J. Gregory Borders, and the principal of LB, John Borders are son and father, respectively.^{5/}

^{3/} The undersigned was relieved to see that neither MRI nor Lake Broadcasting were accused of kidnapping the Lindburgh baby, although KBC and OMB may get around to it.

^{4/} If for no reason other than the fact that they fail to rebut the inferior nature of the proposed spectrum allocation contained in the NPRM when compared to MRI's first local service.

^{5/} It should be noted that the two petitioners, KBC and OMB, are controlled by Mel Pulley and Gary Lynch, respectively, who are also client and attorney, respectively. Indeed, Mr. Lynch has represented Mr. Pulley in various broadcast dealings with the principal of LB and, in fact, sold to Mr. John Borders, the principal of LB, KGBX-FM, Nixa, Missouri, currently operated by John Borders through his company Sunburst II, Inc. In effect, John Borders, Mel Pulley and Gary Lynch have had a long history of commercial relations in broadcasting.

5. These allegations are true. John Borders and J. Gregory Borders are father and son, and the respective Counterproposals are worded the same. However, this has no relevance to the intent of MRI to build and operate a station in Humansville, Missouri. Because MRI submitted its Counterproposal pro se, the form of Counterproposal used was that which was available. This was also the form used by John Borders d/b/a Lake Broadcasting. The fact that the undersigned principal of MRI is the son of John Borders does not suggest that MRI's Counterproposal lacks sincerity. Quite the contrary, it is precisely because of the undersigned's exposure to, and experience in, the broadcasting industry, that there is a strong desire to construct a first local service in Humansville.

6. J. Gregory Borders is the son of John Borders who is a long-time broadcaster. Having grown up in a family of career broadcasters, J. Gregory Borders has had great experience in broadcasting, including, specifically Missouri radio where J. Gregory Borders' family owns two stations.^{6/} If MRI's Counterproposal is granted, MRI intends to promptly file a construction permit application with a view toward building the new station and providing Humansville with its first local

^{6/} In addition to the family stations in Missouri, J. Gregory Borders worked for KNFO-FM, Waco, Texas, and later became a sales executive for KPLX, Dallas, Texas. J. Gregory Borders eventually left KPLX to enter the Arlington Police Force with the intention, however, that if the opportunity presented itself, he would seek to acquire his own station, preferably in a small market. If the MRI proposal is granted, J. Gregory Borders, through MRI, intends to devote substantial time to the construction and operation of the first local radio service in Humansville.

service. In contrast, the OMB and KBC proposal will only increase service to saturated markets. Indeed, OMB's own reply makes clear its objectives. By upgrading its station to a C2, OMB's objective is to "place a 3.16 mV/m signal over the Springfield, Missouri metropolitan radio market." See OMB Reply Comments at ¶8. Obviously, OMB's objective is not to improve service to Ozark. Instead, OMB's goal is reaching the already saturated Springfield market. MRI asks, does this serve the public interest?

7. OMB and KBC also claim that MRI's Counterproposal amounts to extortion in order to force OMB to sell its station to John Borders. In this regard, OMB and KBC claim that the undersigned is being "used" by John Borders to further this dastardly objective. This is utterly ridiculous. J. Gregory Borders is an adult with an independent agenda, and a desire to own and someday operate his own station, preferably in a small market.

8. In sum, it is respectfully requested that the Commission's analysis of this issue not be clouded with false and irrelevant accusations. The issue is clear: which proposal best serves the public interest? Does it better serve the Commission's policies to give Humansville a first local service without denying either Ozark or Halfway existing service, or is the Commission policy best served by denying a first local service to Humansville while placing yet another signal over the already saturated Springfield market. MRI respectfully submits

that its Counterproposal is the best use of spectrum in this instance.

For the reasons stated above, the Commission must not adopt the proposal set forth in the NPRM. Rather the Commission must allocate Channel 256A at Humansville, Missouri. Adopting MRI's counterproposal will clearly serve the public interest.

Respectfully submitted,

MISSOURI RADIO, INC.

By: 232

Its: President

1909 Columbia Drive
Richardson, Texas 75081

Date: October 1, 1993

VERIFICATION

I, J. Gregory Borders, President of Missouri Radio, Inc., do hereby certify under penalty of perjury that I have read the foregoing "REPLY COMMENTS OF MISSOURI RADIO, INC." ("Reply"), that I have personal knowledge of the facts stated in the Reply and that, to the best of my knowledge, information and belief, the facts stated in the Reply are true and correct.



J. Gregory Borders

Date: October 1, 1993

CERTIFICATE OF SERVICE

I, J. Gregory Borders, President of Missouri Radio, Inc., do hereby certify that a true copy of the foregoing "REPLY COMMENTS OF MISSOURI RADIO, INC." was sent this 1st day of October, 1993, by first-class United States mail, postage prepaid, to the following:

William J. Pennington, III
Attorney for KYOO Broadcasting Co.
P.O. Box 2506
Pawleys Island, SC 29585

Lake Broadcasting
John Borders, Proprietor
5930 L.B.J.
Suite 400
Dallas, TX 75240

Gary Lynch, Esq.
Ozark Mountain Broadcasting, Inc.
P.O. Box 117
Bolivar, MO 65613

Henderson-McChristian Communication
Station KXBR
Route 5, Highway 72 East
Gravette, AR 72736

Demaree Media, Inc.
Station KFAY-FM
P.O. Box 878
Fayetteville, AR 72712



J. Gregory Borders